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In The
Supreme Court of the United States

PEDRO A. ROLDÓS-MATOS,
ARCELIO MALDONADO-ÁVILES,
LILLIANETTE CORTES-SOTO and
EDGARDO LUIS LLORÉNS-VALEDÓN
attorneys for the Legal Aid Society of Puerto Rico,

Petitioners,

v.

SUPREME COURT OF PUERTO RICO,

Respondents.

On Petition For Writ Of Certiorari To The Supreme Court Of Puerto Rico

PETITION FOR WRIT OF CERTIORARI

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QUESTION PRESENTED

The questions presented in this case are: (1) whether petitioners' constitutional rights of freedom of speech, due process, equal protection of the laws, and the right to organize themselves and to strike under the National Relations Act, were violated by the Puerto Rico Supreme Court for petitioners having been prohibited to engage in concerted activities for the purpose of collective bargaining and sanctioned, out of nearly 100 attorneys, for participating in a legal strike of unionized Legal Aid attorneys and not having appeared to court proceedings while the strike was in effect, although, as in previous occasions, supervisors were available to substitute striking attorneys, and for petitioners having been sanctioned without the benefit of a hearing; (2) whether the application of the Bar Code of Professional Ethics of Puerto Rico to petitioners overrides the National Labor Relations Act in violation of the Supremacy Clause of the Constitution.

PARTIES TO THE PROCEEDINGS

Pedro A. Roldós-Matos, Arcelio Maldonado-Áviles, Lillianette Cortes-Soto and Edgardo Luis Lloréns-Valedón, attorneys for the Legal Aid Society of Puerto Rico, Petitioners

v.

Supreme Court of Puerto Rico, Respondents

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PETITION FOR WRIT OF CERTIORARI

Petitioners, Pedro A. Roldós-Matos, Arcelio Maldonado-Áviles, Lillianette Cortes-Soto and Edgardo Luis Lloréns-Valedón, attorneys for the Legal Aid Society of Puerto Rico, respectfully request that a writ of certiorari be issued to review the judgment of the Supreme Court of Puerto Rico in this case.

OPINION BELOW

The opinion of the Supreme Court of Puerto Rico is reported at Decisions of the Supreme Court of Puerto Rico, 04 TSPR 40, a certified English translation is enclosed in the Appendix to this petition, at pages 1-20.

STATEMENT OF JURISDICTION

The judgment of the Supreme Court of Puerto Rico was entered on March 17, 2004. The Supreme Court of Puerto Rico denied a timely petition for reconsideration on April 8, 2005. App. 23.

The jurisdiction of this Court is invoked under 28 U.S.C. 1258.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The **First Amendment** to the United States Constitution provides in relevant part: Congress shall make no law respecting an establishment of religion, or prohibiting the

free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

The **Fourteenth Amendment** to the United States Constitution provides, in its pertinent part, as follows: No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The **Supremacy Clause** to the United States Constitution – Article VI, clause 2 – provides: This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

Section 7 of the National Labor Relations Act, 29 U.S.C. 157, provides in relevant part that employees shall: "have the right to self-organization, to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection . . . ".

STATEMENT OF THE CASE

The fundamental question in this case is whether four unionized Legal Aid attorneys out of nearly 100 that participated in a strike were engaged in protected activity and therefore should not have been sanctioned by the Puerto Rico Supreme Court (PRSC) for an alleged violation of ethical conduct for not having attended court hearings during the strike, especially when the doctrine of preemption under the National Labor Relations Act (NLRA) directly applied and petitioners' supervisors were present at the hearings, who could have substituted herein petitioners, as had occurred in previous occasions. **The crucial issue is whether a PRSC regulation of an ethical conduct may be in conflict with, and may prevail over the right to strike under Section 7 of the NLRA, which recognizes the right of employees to engage in concerted activities for the purpose of collective bargaining.** To fully appreciate the significance of the issues presented in this case, it is essential to consider its procedural background.

A. Background of the sanctions imposed upon petitioners

The Legal Aid Society is a nonprofit organization that has statutory recognition under the laws of Puerto Rico to represent indigent persons charged with criminal offenses. Petitioners Pedro A. Roldós-Matos, Arcelio Maldonado-Áviles, Lillianette Cortes-Soto and Edgardo Luis Lloréns-Valedón were staff attorneys and were members of the Legal Aid Union involved in this case. The union was certified by the National Labor Relations Board (NLRB) in 1983 to represent the staff attorneys of Legal Aid in Puerto Rico. App. 25-26. The Legal Aid Society has around

130 employees, including supervisors, who represent indigent persons in criminal cases within the Island. The attorneys work in the different judicial districts from the offices of the Legal Aid Society located in the cities of San Juan, Bayamón, Carolina, Fajardo, Caguas, Humacao, Ponce, Mayaguez, Aguadilla, Arecibo and Utuado.

On August 16, 2001, the Union called for a strike and its members joined the picket lines. No cases and/or hearings were attended by union members while the strike lasted. Some weeks later, on September 26, 2001, the strike ended when an agreement was reached by the parties.

Petitioners were the only Union members charged before the Supreme Court of Puerto Rico for having violated various sections of the Code of Ethics that apply to attorneys in Puerto Rico. These canons are almost identical to those of the ABA Model Rules of Professional Conduct. The petitioners were charged with violation of Canons 9, 12 and 18 of Professional Ethics, which in the pertinent parts indicate the following:

Canon 9:

> The attorney shall observe a conduct with the court, which may be characterized as one of great respect.

Canon 12:

> It is the duty of the attorney to the Court, colleagues, the parties and witnesses to be punctual in attendance and concise and accurate in the filing and presentation of an action. This implies carrying out all necessary business so as not to cause any undue delays in the steps and solution. The suspension of a hearing should only be requested when powerful reasons exist and

> when it is indispensable for the substantial protection of the rights of the client.
>
> Canon 18:
>
> > It is the duty of the attorney to defend the client's interests diligently, performing in each case with as much knowledge and ability, and acting in the manner that the judicial profession in general deems adequate and responsible.

See 4 PRLA Ap. IX, Canons 9, 12, and 18.

No charges were brought against other members of the Union for not having attended scheduled hearings during the strike. In the past, the PRSC had encountered similar situations and had promulgated various regulations so that attorneys in private practice could be appointed to attend hearings (on a pro bono or a reasonable fee basis) as in the case at bar, in which Legal Aid attorneys were not able to represent clients. See ***In re Reglamento*** . . . , 2001 TSPR 122 (Aug. 31, 2002).

Herein petitioners moved the PRSC to dismiss the charges contending that their conduct was protected by the First Amendment, **that the field was preempted by federal law**, that they had been selectively prosecuted, that since their supervisors were available they could have replaced petitioners at the hearings as it was customarily done and that no damages had been caused to any client during the strike. Petitioners requested for an evidentiary hearing regarding the charges that had been filed against them, but it was not granted.

The PRSC held that the NLRA did not apply to this case and that petitioners had, by not attending the scheduled hearings – despite their respective supervisors having

been present at said hearings – violated Canons 9, 12 and 18 of the Code of Ethics that apply to members of the bar in Puerto Rico.

REASONS FOR GRANTING THE WRIT

I. THE PETITION SHOULD BE GRANTED BECAUSE THE OPINION BELOW CONFLICTS WITH THIS COURT'S PRIOR RULINGS ON THE ESSENTIAL RIGHT OF AN UNION MEMBER TO STRIKE AS CONTEMPLATED BY THE FIRST AMENDMENT, UNDER SECTION SEVEN (7) OF THE NLRA AND PREEMPTION PRINCIPLES

In this case, the PRSC held that petitioners' right to strike was not at issue, that the NLRA did not apply since the strike did not affect interstate commerce, that the NLRB did not have jurisdiction since no unfair practices under the NLRA were present in the conflict, and that the court was not passing judgment over concerted activities covered by the federal statute. App. 14-15. But this opinion is directly in conflict with previous decisions of this Court.

First, there is no issue that petitioners Pedro A. Roldós-Matos, Arcelio Maldonado-Áviles, Lillianette Cortes-Soto and Edgardo Luis Lloréns-Valedón, are members of the Legal Aid Union involved in this case and that the union was certified in 1983 by the NLRB to represent the staff attorneys. App. 25-26. On August 16, 2001, the Union called for a strike and its members joined the picket lines. No court hearings were attended by union members while the strike lasted. Some weeks later, on September 26, 2001, the strike ended when an agreement was reached by the parties. No charges to the other members of the union

were filed before the PRSC for not having attended scheduled hearings during the strike.

Herein petitioners moved the PRSC to dismiss the charges against them contending that their activity was protected by constitutional federal principles and statutes, that the field was preempted, that they had been selectively prosecuted, that their supervisors could have replaced them at the hearings and that no damages had been established for having exercised their **federally protected rights**. Petitioners requested for an evidentiary hearing, but the same was denied. The court held that petitioners had violated Canons 9, 12 and 18 of the Code of Professional Responsibility. 4 PRLA Ap. IX, Canons 9, 12, and 18. This petition was then filed.

A. Petitioners' rights under the National Labor Relations Act were violated by the sanctions imposed by the Supreme Court of Puerto Rico

There is no question that the Legal Aid union was certified by the NLRB in 1983 to represent the staff attorneys of Legal Aid in Puerto Rico and that herein petitioners exercised the right to strike as members of said union when the incidents involved in this case occurred. **This Court has not encountered a case where a regulation of an ethical conduct may be in conflict with the right to strike under Section 7 of the NLRA, which recognizes the right of employees to engage in concerted activities for the purpose of collective bargaining.** And this encompasses the right to strike, one of the core rights of the federal scheme. ***Bus Employees v. Missouri,*** 374 U.S. 74, 82 (1963).

In ***Montefiore Hospital and Medical Center v. N.L.R.B.***, 621 F.2d 510 (2d Cir. 1980), the Second Circuit

held that medical doctors – who attend to sick people with serious illnesses – that had joined a sympathy strike without previously notifying of their decision, did not lose their Section 7 rights under the NLRA. In the same vein, petitioners, as legal aid attorneys that participated in a strike under the NLRA, herein petitioners could not have been sanctioned by the PRSC – a state agency – for exercising their right to strike, especially when their clients were not affected since no trials or important hearings were involved, and any costs or charges, if any, were minimal. Further, the respective supervisors of the petitioners, were present at the hearings and could have filled the positions of herein petitioners as is customarily done; but in order to intimidate petitioners, the supervisors denied to attend the scheduled hearings.[1] Moreover, the chilling effect that the sanctions imposed have had upon petitioners and other members of the Legal Aid union as well as on other professionals whose unions have been certified under the NLRA, will have permanent adverse effects in the exercise of their **federally protected rights** if this petition is not granted and the opinion of the PRSC is reversed.

Petitioners submit that the Supremacy Clause of the U.S. Constitution – Article VI, clause 2 – precludes the PRSC from enforcing varying ethical rules which are inconsistent with the right of a union member under the NLRA. This is so since under the Supremacy Clause, state law is preempted where Congress explicitly states an

[1] It must be mentioned that the Legal Aid Society in Puerto Rico is recognized by statute to afford legal representation, but the supervisors involved, in refusing to attend the Legal Aid clients, were not sanctioned by the PRSC or by the judges presiding in the hearings in which petitioners were absent due to their legal right to strike.

intent to occupy a field and exclude state regulation; where the federal interest in the subject matter regulated is so dominant that no room remains for state action, indicating an implicit intent to occupy the field; and where the state regulation at issue, **as interpreted and applied in this case by the PRSC**, conflicts with federal law or stands as an obstacle to the accomplishment of its objectives. It is acknowledged that the NLRA does not contain any express provision concerning the extent to which the Act was intended to displace state law; but this Court has interpreted *to encompass all forms of state regulation – legislative, administrative, executive and judicial common law*. See, e.g., ***Pacific Gas & Elec. Co. v. State Energy Res. Conservation & Dev. Comm'n***, 461 U.S. 190, 203-04, 103 S.Ct. 1713, 75 L.Ed.2d 752 (1983); ***Fidelity Fed. Sav. & Loan Ass'n v. de la Cuesta***, 458 U.S. 141, 153, 102 S.Ct. 3014, 73 L.Ed.2d 664 (1982). In this case, the PRSC acknowledged that herein petitioners have a right to strike, but prohibited petitioners and others similarly situated to exercise said right. There is a clear conflict between petitioners' rights under federal law and their duties under state law. See, e.g., ***Hillsborough County v. Automated Medical Laboratories, Inc.***, 471 U.S. 707, 713, 105 S.Ct. 2371, 2375, 85 L.Ed.2d 714 (1985). And compliance with both federal and state regulations is a physical impossibility and the PRSC decision stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress and petitioners' constitutional and statutory rights. *Id.*

In essence, federal labor law creates the rights at issue in this case. This Court has recognized that Congress, in enacting the NLRA, manifested an unambiguous intent to supplant some aspects of state law that affect

labor relations. ***Bethlehem Steel Co. v. N.Y. State Labor Relations Bd.***, 330 U.S. 767, 771-76, 67 S.Ct. 1026, 91 L.Ed. 1234 (1947). "The doctrine of labor law preemption concerns the extent to which Congress has placed implicit limits on 'the permissible scope of state regulation of activity touching upon labor-management relations.'" ***N.Y. Tel. Co. v. N.Y. State Dep't of Labor***, 440 U.S. 519, 527, 99 S.Ct. 1328, 59 L.Ed.2d 553 (1979) (plurality opinion) (quoting ***Sears, Roebuck & Co. v. San Diego County Dist. Council of Carpenters***, 436 U.S. 180, 187, 98 S.Ct. 1745, 56 L.Ed.2d 209 (1978)). ***Garner v. Teamsters, Chauffeurs & Helpers Local Union***, 346 U.S. 485, 488, 74 S.Ct. 161, 98 L.Ed. 228 (1953). Thus, the PRSC, by sanctioning and prohibiting petitioners to exercise their statutory and constitutional rights supplanted crucial aspects of federal law that affect labor relations, and consequently, violated petitioners' federally protected rights in this case.

B. Petitioners' First Amendment concerted activities and ethical considerations

This case involves the right to speech, in the modality of a strike, that Legal Aid attorneys have in order to advance their working conditions. The strict interpretation given by the court below does not recognize and discards the right to strike, a basic form of classical expression that has been recognized by this Court as an important weapon that union members posses in their struggle to attain better working conditions. The matter before this Court does not call into question the constitutionality of the lawyers' duties under Canons 9, 12 and 18 of the Code of Professional Ethics of Puerto Rico, but is limited to the interpretation of said Canons of Ethics given by the PRSC under the particular circumstances of this case. **Moreover,**

the chilling effect that the sanctions imposed upon petitioners have already caused, notwithstanding the fact that their union had been certified under the NLRA, will definitively have permanent adverse effects upon petitioners and others in similar situations when the right to strike is involved, as in the instant case.

The PRSC held that the petitioners violated the duties imposed by these Canons of Ethics for not having attended scheduled hearings of cases in which they were involved, even though they were participating in a legal strike as members of a workers union. Specifically, the court held that petitioners had violated Canons 9, 12, and 18 the Code of Professional Ethics, which apply to members of the bar of Puerto Rico. But the PRSC has erroneously interpreted the Professional Canons of Ethics of Puerto Rico as they apply to the particular circumstances of this case, **causing a federal law issue and controversy as to the NLRA and petitioners' right to strike**.

Canon 9 concerns the attorney's duty of respect towards the court. The canon itself clearly defines and delimits what encompasses a breach of the duty of respect to the court. It states: "The attorney shall observe a conduct with the court, which may be characterized as one of great respect. This includes the obligation to discourage and avoid unjustified attacks or illicit assaults against the judges or against the court's good order in the administration of justice. The duty of respect owed to the court also includes the obligation to take measures under the law against judicial officers that abuse of their prerogatives or improperly perform their functions or who do not act in a respectful and courteous manner. 4 PLRA Ap. IX, Canon 9. Clearly, breach of respect to the court as delineated in Canon 9 by not

having appeared to hearings since petitioners were taking part in a strike, which was their legal right, or by failure to give notice of non-appearance, is not equivalent to an "unjust attack" against the judges or the court's good order in the administration of justice. Furthermore, exercising a legal and constitutional right as a member of a union is not a violation of the duty of respect for the Court at all.

In its decision, the PRSC stated that when an attorney does not attend a scheduled case or hearing due to his participation in a legal strike as a member of a union, he is in fact ignoring an order made by the court of justice. See, App. 16. But as the facts clearly show, petitioners in this case did not ignore orders of the court or fail to follow the orders seriously or diligently. The fact that they did not attend the scheduled case hearings was simply an effect of their participating and exercising an important **legal and constitutional right**. At most, the attorneys did not attend the scheduled hearing due to their participation in a legal strike. It is an identical situation as when medical doctors working in a hospital join a strike to support other unionized employees that have started a legal strike regarding terms and conditions of employment. See, e.g., ***Montefiore Hospital and Medical Center v. N.L.R.B.***, 621 F.2d 510, supra.

The Supreme Court of Puerto Rico itself has previously held that an *unreasonable or inexcusable delay* in complying with an order of the court is a violation of the duty of respect to the court encompassed in Canon 9. See ***In re Colón Torres***, 129 D.P.R. 490 (1991) (emphasis added). But in this case the "delay" to comply with the order of the court was not unreasonable or inexcusable. The petitioners were exercising their legal and constitutional right to strike as members of a union. The right to

strike is a basic form of classical expression that has been recognized as an important weapon that union members posses in their struggle to attain better working conditions. Under the circumstances of this case, the petitioners had to exercise their right to strike, an action that was reasonable and justifiable. Therefore, petitioners' actions were not a violation of the professional duty of respect under Canon 9.

The PRSC also held that herein petitioners had violated Canon 12 of the Puerto Rico Code of Professional Ethics, which states: "It is the duty of the attorney to the Court, colleagues, the parties and witnesses to be punctual in attendance and concise and accurate in the filing and presentation of an action. This implies carrying out all necessary business so as not to cause any *undue delays* in the steps and solution of cases. The continuance of a hearing should only be requested when *powerful reasons* exist and when it is indispensable for the substantial protection of the rights of the client." 4 PRLA Ap. IX, Canon 12 (emphasis added). But the PRSC unjustly characterized herein petitioners' absence in the hearings as an "undue delay" in the carrying out of business for the court. It is hard to understand how exercising their right to strike, which is either a protected constitutional guarantee and/or a federally protected right, could qualify as an "undue" delay. In other words, the PRSC is characterizing a constitutional right and or a federally protected right as unjustified, unnecessary or unwarranted when the same court has previously held that the continuance of a hearing of a case is justified when the absence of the attorneys was not capricious or unreasonable. ***Neri Tirado v. Tribunal Superior***, 104 D.P.R. 429 (1975).

The petitioners' absences in this case were neither capricious nor unreasonable because their absence was the result of exercising a **federal legal right**. Also, the petitioners' supervisors normally substitute union lawyers when they are absent. Herein petitioners absence did not affect the Legal Aid clients involved in the hearings because there were no trials taking place, only interlocutory hearings which could be adjourned without any of the clients' rights being harmed. Moreover, it was not necessary to continue the hearings since petitioners' supervisors, who have an obligation and duty to replace and "fill in" in the event of the attorney's absence, were available. On the other hand, the PRSC had taken special provisions to appoint private practice attorneys to indigents in criminal cases while the strike was taking place. See ***In re Reglamento*** ... , supra. Thus, stripping the petitioners of this legal right was an arbitrary and capricious decision which caused them an injustice.

Canon 18 concerns the attorney's duty to his client to be competent in his representation and the attorney's role as advisor to his client. In this case the PRSC held that herein petitioners had violated different aspects of this canon by not appearing at the scheduled hearings or presenting a justified excuse for the absence. See App. 16. The court also insinuated that petitioners failed to meet the obligation under Canon 18 to take on the representation of a client only when an attorney reasonably believes that he is able to give competent and adequate representation without causing unreasonable costs and charges to the client or the administration of justice. *Id.*

However, the particular factual development of this case does not support the conclusion that petitioners did not prepare themselves adequately in anticipation of their client's representation. Absence from a hearing is not by

itself sufficient to merit such a broad interpretation, especially considering the fact that the commencement of a legal strike is not something one can predict. Further, the court held that the petitioners, through their absence, failed to avoid imposing unreasonable costs and charges to their clients and the administration of justice. App. 11-12. But, in the first place, petitioners are employees of the Legal Aid Society of Puerto Rico, who is recognized by statute to represent indigent criminal defendants. Therefore, the Legal Aid Society clients are only benefiting from herein petitioners' representation and any costs caused by petitioner's absence are not imputed to the client. Secondly, the costs or charges to the administration of justice, if any, were minimal. These costs were the result of and caused by the petitioners' exercise of their legal right to be part of a strike. Further, the respective supervisors of the petitioners, were present at the hearings and could have, as is customarily done, filled the position of any of herein petitioners and conferred the representation. This procedure was not followed in order to intimidate petitioners in the exercise of their right to strike. Therefore, any costs and charges caused by the attorneys' absence could have been avoided if their respective supervisors would have attended the hearings herein involved.

The PRSC also held that the lawyer's duty of competence encompassed in Canon 18 is violated when an attorney does not attend scheduled hearings and does not present a justified excuse for his absence. See App. 13-14. Canon 18 states: "It is the duty of the attorney to defend the client's interests diligently, performing in each case with as much knowledge and ability, and acting in the manner that the judicial profession in general deems adequate and responsible." 4 PRLA Ap. IX, Canon 18. This

Canon mentions nothing pertaining to absence from a scheduled hearing or notification for that absence. This Canon only addresses the duty of an attorney to defend the client's interests diligently and the duty to act in an adequate and professional manner. The petitioners in this case defended their clients diligently and in accordance with their professional duty. Not being present at a hearing does not weaken that fact, especially when the cause of the absence was exercising a constitutional and legal right. The PRSC also alluded that this duty is non-delegable. See App. 12-13. But the non-delegable characteristic of this duty is irrelevant. As the facts make clear, the petitioners in this case at no time attempted to delegate their duty under Canon 18, especially when supervisors customarily fill in for absent attorneys and this was not done in this case in order to affect the strike adversely since petitioners would be intimidated if no supervisor undertook the task of attending the hearings. The chilling effect upon petitioners was clearly set in motion by the posture taken by Legal Aid administrators.

Considering the particular facts of this case and applying them to the relevant canons of ethics, it is clear that the Supreme Court of Puerto Rico was in error in this aspect of its holding. The petitioners were exercising a **constitutional and legal right**, which normally takes precedence over state statutes or decisions. Furthermore, considering the canons in their entirety, it is evident that the petitioners did not fail to accomplish the ethical duties they encompass.

C. Petitioners' right to due process was violated by the Supreme Court of Puerto Rico

In the present case, the Supreme Court of Puerto Rico violated the petitioners' right to procedural due process when, in spite of their possible disciplinary penalties, the court failed to grant petitioners a hearing where they could have presented evidence on their own behalf. Procedural due process ensures that there is a fair decision-making process before an action is taken that impairs a person's life, liberty or property. This constitutional right applies to all persons, including attorneys.

For example, the Local Rules of the United States District Court for the District of Puerto Rico, although not directly applicable to the present case, are worth considering since they bear closely to the issue in the case at bar. The relevant rule states:

> "When misconduct or allegations of misconduct which, if substantiated, would warrant discipline on the part of an attorney admitted to practice before this Court, shall come to the attention of a Judge of this Court, whether by complaint or otherwise . . . the Judge shall refer the matter before a Magistrate Judge or Disciplinary Committee for investigation and a report and recommendation. The Magistrate Judge or Disciplinary Committee *shall afford the attorney the opportunity to be heard. Thereafter, the attorney may submit objections to the report and recommendation* . . . The matter will be submitted to the Court for final determination." Rule 83.5(b) (emphasis added).

Furthermore, in spite of the request, an evidentiary hearing was not granted by the PRSC in order for the petitioners to present evidence on their own behalf regarding

the charges that had been filed against them. Therefore, under the direction of the referred to rule, the petitioners were deprived of their "opportunity to be heard" in violation of their constitutional right to due process. Moreover, the due process right encompassed in rules derived directly from the Constitution, which undoubtedly applies to both federal and state matters.

In a recent First Circuit case, an attorney was suspended from the practice of law for a period of 18 months without an evidentiary hearing. The Court of Appeals held that the attorney was deprived of procedural due process, because he was not offered an opportunity to be heard on the allegations brought against him. ***In re Franco***, ___ F.3d ___ (2005); 2005 WL 1253313.

Procedural due process requires that an opportunity to present evidence be granted to a person who is to be deprived of life, liberty, or property. This right applies to any person, whether a welfare recipient, attorney, or other. ***Goldberg v. Kelly***, 90 S.Ct. 1011 (1970). As the factual development in the present case reflects, the Supreme Court of Puerto Rico denied the petitioners' request for an evidentiary hearing where they would have had the opportunity to present evidence. The petitioners, faced with disciplinary charges, asked for an opportunity to present evidence in their own defense but this opportunity was unreasonably rejected. Consequently, the petitioners' right to procedural due process was violated.

D. Petitioners' rights to equal protection under the laws were violated by the decision of the Supreme Court of Puerto Rico

The Supreme Court of Puerto Rico violated the petitioners' right to equal protection when it selectively prosecuted them for not having attended scheduled hearings during the strike. Only the petitioners, four attorneys of a Union with a membership of more than 100, were charged with disciplinary sanctions. No other members of the union were charged, although others just like the petitioners similarly failed to attend scheduled hearings.

The Supreme Court of Puerto Rico's purpose in sanctioning petitioners was allegedly to protect the rights of petitioners' clients and to protect the good order of the courts. Undoubtedly, these are legitimate purposes. But as the facts in the present case show, the PRSC established other rules and regulations to appoint private practice attorneys and; the other means used by the court to achieve this purpose were severely underinclusive. Only four Legal Aid attorneys were charged with disciplinary sanctions, when many others similarly failed to attend the scheduled hearings. If the failure to attend the hearings was the crux of the problem, why were the other legal aid attorneys not similarly disciplined? Taking the facts into consideration, it is clear that the Court did not use the least restrictive means to achieve its important purpose.

This Court has made it clear that there is a claim under Equal Protection when the government is arbitrarily treating some differently than others. See ***Village of Willowbrook v. Olech***, 120 S.Ct. 1073 (2000). Equal protection does not require allegations that the government has discriminated against a group on the basis of group characteristics. There is a claim under the equal

protection clause even for discrimination against a "class of one." ***Olech***, 120 S.Ct. at 1074. "The purpose of the equal protection clause of the Fourteenth Amendment is to secure every person within a state's jurisdiction against intentional and arbitrarily discrimination, whether occasioned by express terms of a statute or by its improper execution through duly constituted agents." *Id.* at 1074-75. Equal Protection safeguards individuals not groups. In ***Olech***, a homeowner who wanted to connect her property to the municipal water supply was demanded by the village a 33-foot easement for the connection, as opposed to the usual 15-foot easement. Similarly to the homeowner in ***Olech***, the petitioners in the present case were irrationally and arbitrarily discriminated against. Assuming *arguendo* that the right to strike is not a fundamental right and consequently that the Court's decision only has to meet rational basis, it is clear that the court's decision does not even meet this low scrutiny test. Similarly to the homeowner in ***Olech***, the four legal aid attorneys make up a "class of one." *Id.* The court's action to only discipline four attorneys out of many who similarly failed to attend scheduled hearings and/or cases is absolutely irrational and arbitrary discrimination. The means used by the PRSC to achieve this arguably legitimate purpose and the purpose itself are not rationally related. Therefore, since the PRSC arbitrarily and irrationally singled petitioners out for discipline it is clear that their rights protected under the Equal Protection Clause have been violated.

CONCLUSION

For all of the above reasons, the petition for certiorari should be granted.

Respectfully submitted,

In San Juan, Puerto Rico, this 7th day of July, 2005.

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CERTIFICATION OF ACCURACY

This is to certify that the attached are true, accurate and faithful translations of **A Per Curiam Opinion of the Supreme Court of Puerto Rico, In re: Pedro A. Roldós Matos, Arcelio Maldonado Áviles, Lillianette Cortés Soto and Edgardo Luis Llorens Valedón Gonzalez Molina consisting of 21 pages plus the certification and two (2) one page Resolutions, one (1) dated June 7, 2004 In re: Pedro A. Roldós Matos, Arcelio Maldonado Áviles, Lillianette Cortés Soto and one (1) dated April 8, 2005, In re: Pedro A. Roldós Matos, and their respective certifications** from **Spanish into English.**

/s/ Maurice Gilbert
Maurice Gilbert; U.S.A.O.C.
CERTIFIED INTERPRETER/TRANSLATOR
A.T.A. ACCREDITED TRANSLATOR

App. 2

IN THE SUPREME COURT OF PUERTO RICO

In re:	Complaint
Pedro A. Roldós Matos Arcelio Maldonado Avilés Lillianette Cortés Soto Edgardo Luis Lloréns Valedón	2004 TSPR 40 160 DPR ___

Case Number: AB-2001-211
Cons. AB-2001-232
AB-2001-217

Date: March 17, 2004

Office of the Attorney General:

Noemí Rivera de León, Esq.
Assistant Attorney General

Attorneys for the Parties Charged:

José E. Carreras Rovira, Esq.
José J. Nazario de la Rosa, Esq.
Juan Santiago Nieves, Esq.
Edgardo Luis Lloréns Valedón, Esq.

Matter: Professional Conduct

This document constitutes an official document of the Supreme Court, which is subject to the changes and corrections of the compilation process and official publication of the decisions of the Court. Its electronic distribution is done as a public service to the community.

PER CURIAM

In San Juan, Puerto Rico, March 17, 2004.

> *The good course of the judicial process of the country is the inescapable responsibility of every member of the legal profession. It is up to every attorney to ensure that an atmosphere of decorum and solemnity always prevails in the courts working to improve the quality of justice that is imparted in them. To achieve the most adequate unfolding and development of the judicial process, the member of the judicial profession must make all proper and legal efforts at his disposal, especially observing the following cannons* [sic] *which point out some particular duties that arise from this general criteria. The Code of Professional Ethics, General Criteria, Part II on the Duties of Attorneys with the Court*, 4 L.P.R.A. Ap. IX, P. II.

On this occasion we must exercise our inherent power to regulate the legal profession to evaluate the conduct of the Attorneys of the "Sociedad para Asistencia Legal", (Society for Legal Aid), with respect to the judicial proceedings on the occasion when they participated in a labor-management strike.

I

The facts that gave rise to the four (4) complaints in the captioned case occurred between August 16 and September 26 of 2001 when the union attorneys of the Society for Legal Aid went on a labor-management strike. It is about the conduct of the attorneys regarding judicial proceedings held before the Court of First Instance during

the pendency of a decree of strike, which related to cases of clients assumed prior to said strike decree. All the parties charged were notified sufficiently in advance of the scheduled hearings to which they did not appear because they were participating in the mentioned strike.

A. Complaint against Pedro A. Roldós Matos, Esq.

On August 31 of 2001, a hearing had been scheduled for Sentencing in the case of *People v. Delgado Pérez*, Crim. No. ELE2001G0040, before the Court of First Instance, Superior Court of Caguas. The attorney for the accused in the mentioned case, Pedro A. Roldós Matos, Esq., did not appear because he was participating in a strike decreed by the Union of the attorneys for the Society for Legal Aid. At that hearing The State and the accused, who was detained, appeared.

At that time, the Court of First Instance, issued an order, against attorney Roldos Matos, to show cause why this case, for violation of the cannons [sic] of professional ethics, for failure to appear at said hearing without previously presenting a motion in that regard, should not be referred to this Tribunal.

At that point, the hearing to dictate decision was rescheduled for August 21, 2001. That day, the accused again appeared without his legal representation and the forum of instance set it for the record that in spite of everything being ready for dictation of decision it could not be done due to the failure to appear of counsel for the defense. The record reflects that attorney Roldos Matos did not justify his failure to appear by way of prior motion. Therefore, the Court ordered notification of the record to

the Supreme Court for the corresponding disciplinary proceeding.

B. Complaint against Arcelio Maldonado Avilés, Esq.

On September 18 of 2001, a suppression of evidence hearing was scheduled at the Court of First Instance, Superior Court of Fajardo, in Crim. Case No. NSCR200100107, *People v. Acevedo Pastrana*. The record reflects that the State and the accused, without his legal representative, Arcelio Maldonado Aviles, Esq., appeared at this proceeding upon questions by the forum of instance, the accused expressed his interest that it should be attorney Maldonado Aviles who should continue representing him.

In the record of that same day, it was set for the record that it was the third time that attorney Maldonado Aviles failed to appear to scheduled hearings. On two (2) of the mentioned occasions he alleged, as justification, that he was on strike. Not withstanding [sic], on this last occasion attorney Maldonado Avilés had not appeared or presented any excuse, which is why the Court of Instance ordered the record of the proceedings be sent to the Supreme Court. The Court, also ordered the attorney to show cause why he should not be held in contempt and subject to other sanctions. Lastly, it was stated for the record that the postponement was chargeable to the counsel for the accused. The hearing was scheduled for October 23, 2001.

C. Complaint against Lillianette Cortés Soto, Esq.

The Crim. Case No. JPD2000G0587, *People v. Barrios Ríos*, was scheduled for a full hearing on August 29, 2001 before the Court of First Instance, Superior Court of Ponce. The record reflects that on that day, the State and the accused, without his legal representation, Lillianette Cortes Soto, Esq., appeared. The State's witnesses and the Director of the Office of the Society for Legal Aid in Ponce, César Estremera Soto, Esq. Upon being questioned by the Judge attorney Estremera Soto expressed that he had instructions to not intervene in any case assigned to union attorneys of the Society because said responsibility is personal of each attorney.

The Judge of instance also explained on the record that attorney Cortes Soto did not present a motion to notify the reason for her failure to appear. In view of this, the Court of first Instance ordered attorney Cortes Soto to show cause why she should not be sanctioned. Also, it was stated for the record that the accusatory evidence was complete, which undermined the right of the accused to a speedy trial, more so when he was detained. The Court stated for the record that said terms were waived by the defense in the face of the failure to appear of counsel. Finally, the court of instance referred the case to the Supreme Court and scheduled a full hearing for September 28, 2001.

D. Complaint against Edgardo Luis Lloréns Valedón, Esq.

The pre-trial conference in Crim. Case No. JPD2001G0108, *People v. Figueroa Rivera*, was scheduled for August 29,

2001 before the Court of First Instance, Superior Court of Ponce. The record of the proceedings indicates that, on that day, the State and the accused, without his legal representation, Edgardo Luis Lloréns Valedón, Esq., appeared. Also present was the Director of the Office of the Society for Legal Aid in Ponce, César Estremera Soto, Esq., who expressed to the Court that he had instructions to not intervene in any case assigned to union attorneys of the Society because said responsibility corresponds personally to each attorney.

The forum of instance pointed out that attorney Llorens Valedon did not present any motion to justify his failure to appear. Therefore, he issued an order to show cause against the mentioned attorney to explain why he should not be sanctioned. It was also stated that proof of the State was complete, which is why the terms of a speedy trial of the accused were affected. Consequently, the Court referred the conduct of attorney Llorens Valedon to the Supreme Court. The pre-trial conference was moved to October 2, 2001.

After considering the files referred by the Court of First Instance in the previously summarized cases, we order the Attorney General to carry out the investigation and the corresponding Report. In complying with said requirement, the Attorney General noticed the complaints to the attorneys and requested their respective answers. In addition, in view of the request of the Attorney General, and for decision purposes we consolidate these complaints.

Attorneys Roldós Matos and Maldonado Avilés and attorney Cortés Soto answered the complaint jointly. They explained that the Independent Union of Attorneys of the Society for Legal Aid decreed a strike the [sic] went into

effect on August 16 of 2001 and extended to September 26 of 2001 and that, as they were active members of the union, they were obligated to comply with the decreed strike stoppage. They allege that the complaints against them should be dismissed because the Code of Professional Ethics should not apply in these cases, since the field was occupied by the National Labor Relations Act, 29 U.S.C. secs. 151 *et seq*. Specifically, they alleged that the disciplinary procedure against the attorneys charged interferes with the exclusive jurisdiction of the National Labor Relations Board conferred by said federal statute, which is contrary to the occupied field doctrine. Lastly, they explained that the attorney's conduct did not have the intention of disrespect to the Court, but rather it responded to a moral duty of mutual support in "the struggle for survival and for better conditions of life and salary for the (unionized) attorneys of the [Society for Legal Aid"].

On the other hand, attorney Lloréns Valedón answered the complaint against him individually and requested to join in the arguments of rights presented by the others charged. Additionally, he alleged that he exercised his right to strike convinced that it would not carry any disciplinary sanctions at all, and that to that effect the union hired a legal advisor to orient the membership. To that already stated, attorney Lloréns Valedón added the fact that there does not exist – or he did not find – evidence of disciplinary proceedings against other attorneys of the Society for Legal Aid in prior strikes.

In view of the before mentioned, the Attorney General made a Report on the consolidated complaints, in which he concluded that the attorneys charged violated Cannons [sic] 9, 12 y 18 of the Code of Professional Ethics. 4 L.P.R.A. Ap. IX, P. II. Let us see.

II

According to the General Criteria of Part II of the Code of Professional Ethics for attorneys regarding their duties to the Courts, the good working of the judicial process "is an inescapable responsibility of every member of the legal profession." Therefore, it is the duty of all attorneys to procure an environment of decorum and solemnity in the Courts with the purpose of improving the quality of justice that is imparted in them. *Id.* More specifically, this part of the Code of Professional Ethics imposes on the attorneys the duty to behave with the "utmost respect" towards the Courts. Cannon [sic] 9 of the Code Of Professional Ethics, *supra*. This Cannon [sic] 9 includes the duty to attend to the orders of the Court diligently and in a timely manner with respect to the dealing with client's cases and the appearances to scheduled judicial proceedings. *In re Soto Colón*, res. on November 9, 2001, 2001 TSPR 166; *In re Díaz Grau*, res. the 1st of May of 2001, 2001 TSPR 70.

Although the duty to respect the Courts in Cannon [sic] 9 has been used by us mainly to sanction the inattentiveness of attorneys to requirements of this Court within the disciplinary proceedings,[1] equally, this ethical tenet indubitably includes the duty of every law professional to treat the orders of the Court of First Instance and the Court of Appeals with equal diligence and seriousness. *In re Soto Colón*, *supra*; *In re Díaz Grau*, *supra*. We have repeatedly pointed out that "the inattentiveness to the orders issued by the Justice Tribunals constitutes a grave

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[1] *In re Otero Fernández*, 145 D.P.R. 582 (1998) and *cases there cited*; *In re Claudio Ortiz*, 141 D.P.R. 937 (1996); *In re Colón Torres*, 129 D.P.R. 490 (1991); *In re Díaz García*, 104 D.P.R. 171 (1975).

insult to their authority, in direct violation to the duty of the conduct demanded by the mentioned Cannon [sic] [9]." *In re Quevedo Cordero*, res. el January 21, 1999, 99 TSPR 4; *additionally*, *In re Fernández Otero*, 145 D.P.R. 582 (1998); *In re Grau Díaz*, *supra*.

Related to this duty of respect towards the judicial authority, Part II of the Code of Professional Ethics also sets forth the obligation of the Profession of the Law to attend to the client cases in a timely and concise manner. Cannon [sic] 12 of the Code of Professional Ethics, *supra*. In complying with said obligation, cannon [sic] 12 requires that the attorney deploy:

> All the necessary diligence to insure that undue delays are not caused in attending and resolving the cases [they are responsible for.] They only need to request the postponement of a hearing when powerful reasons exist and it is indispensable for the protection of the substantial rights of his or her client. *Id*

The duty of timeliness and conciseness in the handling of cases and the compliance with judicial scheduling and the obligation of not requesting postponement of proceedings, unless there exist powerful reasons and that it is indispensable for the protection of the substantial rights of the client, is due to the Court as well as to fellow attorneys and of course, to the client him or her self. *Id.*; *additionally*, *In re Ayala Torres*, res. el February 14 of 2000, 2000 TSPR 44. This is an ethical responsibility that exists in all stages of litigation and includes the duty to follow the orders of the Court. *In re Soto Colón*, *supra*; *In re Grau Díaz*, *supra*.

To those effects we have expressed that:

> In the handling of a lawsuit, the attorney owes the Courts the respect for the judicial orders which are directed at him, her, demanding of him or her punctual attendance and deploying all necessary diligence to assure that no undue delays are caused in the handling and solving of the cases. *Citing Acevedo v. Compañía Telefónica de P.R.*, 102 D.P.R. 787 (1974).

On the other hand, Cannon [sic] 18 of the Code of Professional Ethics dispose that the attorney must perform his profession fully and diligently. When assuming the representation of the client he, she must prepare adequately and avoid imposing "unreasonable expenses and Delays on the client and on the justice administration." *Id.* The attorney must accede to represent a client only "when he or she is aware that they can offer an ideally competent job and that they can prepare adequately without this saddling the client or the justice administration with unreasonable expenses or delays." *Id.* In Cannon [sic] 18 it also disposes that:

> It is the duty of the attorney to diligently defend the interests of the client, deploying in each case the most profound knowledge and ability and acting in that manner that the judicial profession in general deems adequate and responsible.

This duty of competence consecrated in Cannon [sic] 18 is infringed when an attorney, for example, does not appear at hearings scheduled by the Court nor presents justified excuses in that regard. *In re Soto Colón, supra.* Precisely in *In re Soto Colón, supra,* we reiterate that:

> [B]eyond the reasons that induce an attorney to accept a case, ***once he or she assumes the***

> ***legal representation of a client, he or she has "a responsibility that cannot be delegated, to the client and to the Court, to carry out that professional performance with the highest degree of diligence and competency possible."*** *Citing In re Silverio Orta*, 117 D.P.R. 14, 19 (1986).

The relationship of the duty to competency imposed by Cannon [sic] 18 to the duty of punctuality and conciseness in the handling of cases and the duty of respect to the Court provided in Cannons [sic] 12 and 19 of the Code of Professional Ethics, respectively, is evident. A competent attorney definitely handles a clients actions in a quick efficient manner and fully observes judicial scheduling to avoid undue delays in consideration to the Court, fellow colleagues and the interests of the client.

Also, the compliance and the strict observation of the ethical duty that is inherent in the practice of the law profession, the least of which are consecrated in the Code of Professional Ethics, *supra*, it is not conditioned to the fact that the attorney receives minimum payments, or receives no payments at all. *In re Pereira Esteves*, 131 D.P.R. 515 (1992). The insufficiency of economic payment, for example, does not justify the lack of diligence in the handling of a case previously assumed by the attorney. *Id.*

In light of the previous discussion, let's look at the controversy before us. We must determine if the attorneys of the Society for Legal Aid charged here are non compliant with their ethical duties by not appearing to judicial scheduling because they are participating in a labor management strike.

III

A

In the present case, the attorneys charged did not appear to the scheduled hearings in criminal cases because they were participating in a labor management strike, which led to undue delays in the resolution of the cases against their clients for approximately thirty (30) days. In the criminal context, the non compliance of the Court scheduling, besides not responding to the respect due to judicial authority, it aggravates the situation of the accused due to the existence of statutory terms that have an effect on the constitutional right to a speedy trial. more so when the client is detained, as occurred with the one represented by attorney Cortés Soto, or when, at least, the stigma and worry of a criminal accusation weighs on the person, as in the case of attorneys Maldonado Avilés y Lloréns Valedón clients.

In spite of recognizing the legitimacy of the labor claim of the attorneys charged, they should have diligently handled the judicial appointments related to cases assumed prior to the strike decree. Once an attorney assumes the responsibility of defending the interests of the client, he or she must proceed with all diligence and competence although that carries personal sacrifice. The attorney is not relieved of his or her professional obligations to the clients unless Court has accepted his or her resignation. The existence of a labor-management strike is not an exception to this standard. Not attending scheduled Court matters because of a labor-management strike causes undue delays of the judicial proceedings and undermines the judicial authority and the respect due to the Courts. All of it, in consequence, has an adverse effect

on the interests of the client and the administration of justice in general.

In the case of *People v. Correa Cartagena*, 130 D.P.R. 350 (1992), we point out in a published Decision that the labor-management strike, in which an attorney from the Society for Legal Aid was participating, was not just cause to fail to appear to the hearings scheduled by the Court. We admonished said attorney, besides, that the failure to appear, agreeing that we had ordered it, "with no other cause other than his participation in the decreed strike [. . .], it could constitute serious violations to Cannons [sic] 12 and 18 of the Code of Professional Ethics." On that occasion, in the same manner, we warned all the unionized attorneys of the Society for Legal Aid that:

> Their recognized right to strike and to the exclusive jurisdiction of the National Labor Relations Board, cannot interfere with the professional obligations assumed by said attorneys with their individual clients prior to the date of the start of the strike, and much less interfere with the jurisdiction of this Court to regulate the profession of the attorneys and to enforce the obligations imposed on them by the Code of Ethics which govern the practice of the law. *People v. Correa Cartagena, supra.*

In thee [sic] present case, independently of the reasons that hte [sic] charged parties may have had for not appearing at the hearings, at least they should have give [sic] prior notification to the Court of Instance and to go by the resolution of said notification by the Court.

On the other hand, the parties charged are not assisted by reason as to their allegation that our inherent power to regulate the profession of law would interfere in

this case with the National Labor Relations Act, *supra*. Said argument is not convincing as it is based on a very fragile theory regarding the effect the labor dispute between the attorneys and the Society for Legal Aid, has on interstate commerce, indispensable requirement for the National Labor Relation [sic] Board take jurisdiction according to said legislation. *See, N.L.R.B. v. Jones & Laughlin Steel Corp.*, 57 S.Ct. 615 (1937).

Even so, we must clarify that the National Labor Relation [sic] Board – entity in charge of implementing in an exclusive manner the National Labor Relation [sic] Act, *supra* – does not have jurisdiction in cases like these since we are not passing judgment over one of the illicit practices expressly numbered in the law in question or on the concerted activities that said law expressly protects *San Diego Building Trades Council v. Garmon*, 359 U.S. 236 (1958); *also*, Demetrio Fernández y Celina Romany, *Labor Law: Cases y Materials*, Ed. de la U.P.R., Tome I, 1987, pgs. 53 *et seq*. Neither the Code of Professional Ethics nor the exercise of our inherent power to regulate the profession of law in this case would affect any activity that is arguably protected by the mentioned law. *San Diego Building Trades Council v. Garmon, supra*; *Sears v. San Diego City*, 436 U.S. 180 (1978); *Vargas v. Molinos Nacionales, Inc.*, 134 D.P.R. 919 (1993).

It cannot be said that of the Code of Professional Ethics of Puerto Rico limits or regulates in any way the rights to collective bargaining of the unionized attorneys. The Code of Professional Ethics of the attorneys in no way regulates the relations between attorneys and their employers. However, even though the attorneys of entities like the Society for Legal Aid can unionize, that, in no way can interfere with their ethical duties towards their

clients, the Court and the rest of their colleagues in the profession.[2]

"The practice of law, differently perhaps from other professions, carries a serious and delicate citizen function since it represents service, ethics and example." *Ramos Acevedo v. Tribunal Superior*, 133 D.P.R. 599, 613 (1993). The attorneys are officers of the Court and "ordained ministers of justice." *Id.*, to pg. 613-614. They choose the practice of law with the full knowledge of their obligations and they swore to comply with these ethical postulates implied in their practice. Therefore, after assuming the charge of their clients, the attorneys cannot disregard the duties and obligations they swore to observe, even when this carries personal sacrifices. *Ramos Acevedo v. Tribunal Superior, supra. Note that we are not sanctioning the act of the attorney's strike. What we cannot tolerate is that the obligations assumed with the client and the compliance with the orders of the Court be disregarded under the pretext of said right.*

Therefore, we reiterate that the right to strike in no way excuses the failure to comply with the ethical and professional duties of the attorney nor can it, because of it, put at risk the freedom of a person and the quick resolution of their case. Neither is it just cause for the failure to comply with the scheduling of a Court hearing.

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[2] This is similar to the case in which the worker brakes some state law of a criminal nature. In these circumstances, the State can regulate and penalize said conduct because it deals with a matter not expressly or arguably protected or prohibited by the National Labor Relations Act, *supra*, which is why the National Labor Relation Board does not have jurisdiction. *Sears v. San Diego City, supra.*

B

Lastly, it is precise to point out that we are not evaluating the right of the attorneys of the Society for Legal Aid to carry out concerted activities of mutual support as part of their strategy to improve their work conditions. We recognize the laudable work these attorneys perform in spite of the denounced insufficiency of financial resources of said entity and we respect the efforts that they realize en route to improving this situation. One has to remember that in this jurisdiction the attorneys of the Society for Legal Aid are the ones that, ordinarily, carry with the responsibility and task of legally representing the persons of limited financial resources accused of crimes. *Ramos Acevedo v. Tribunal Superior*, *supra*. It is estimated that of the 70-80% of the accused of serious crimes are defended by the Society for Legal Aid. *Vision in Route to the Future, Report of the Futuristic Commission of the Courts*, Supreme Court of Puerto Rico, Volume II, 2000, pg. 44.

According to the Report of the Futuristic of the Courts of the Supreme Court, this overload of cases of the Society for Legal Aid, together with the lack of resources, affects the constitutional right of all accused of a crime to an adequate legal representation. *Id.* Strike, therefore, to opine on the urgency of a remedy to the grave recurrent problem of free legal representation in our jurisdiction.[3] The acclaimed access to justice recognized by the Legislator

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[3] This Court has taken measure on several occasions to avoid wherever possible that the rights and interests of the accused be harmed in situations like the present one. *See, In Re: Regulation for the Assignment of Appointed Counsel in Proceedings of a Criminal Nature*, res. on the 1st of March of 2004, 2004 TSPR 30; *In Re: Regulation for the Assignment of Appointed Counsel in Proceedings of a Criminal Nature*, res. August 31 of 2001, 2001 TSPR 122.

when approving the new law of the Judiciary of 2003, Law No. 201 of August 22 of 2003, has to be complemented with measures that provide the adequate resources for the entities that in practice truly make said right possible, as is the Society for Legal Aid. And we take this opportunity to call upon the Legislative Branch to that effect.

IV

Because of the preceding foundation and in keeping with our inherent power to regulate the profession of law, we conclude that those charged, Lillianette Cortés Soto, Edgardo Luis Lloréns Valedón, Arcelio Maldonado Avilés and Pedro A. Roldós Matos violated Cannons 9, 12 and 18 of the Code of Professional Ethics. In view of the lack of intent to harm the client and disregard the orders of the Court and in the absence from prior disciplinary proceedings, and in consideration of the labor circumstances present up until now at the Society for Legal Aid, we limit the sanction to an energetic censure.

The attorneys of the Society for Legal Aid are warned that in future occasions we shall impose more severe sanctions in these cases.

The Sentence Shall Be Dictated Accordingly.

IN THE SUPREME COURT OF PUERTO RICO

In re:

Pedro A. Roldós Matos		
Arcelio Maldonado Avilés		AB-2001-211
Lillianette Cortés Soto	Cons.	AB-2001-232
Edgardo Luis Lloréns Valedón		AB-2001-217

SENTENCE

In San Juan, Puerto Rico, March 17 of 2004.

For the foundation here presented in the preceding *Per Curiam* Opinion, which is made an integral part of the present, Sentence is dictated wherein attorney Lillianette Cortés Soto and attorneys Edgardo Luis Lloréns Valedón, Arcelio Maldonado Avilés and Pedro A. Roldós Matos, are energetically censured. They are warned that in future occasions we will impose more severe sanctions in these cases.

Notify by telephone and by the way.

Publish.

So it was pronounced and ordered by the Court and Certified to the Clerk of the Supreme Court. Associate Judge Mr. Rebollo Lopez did not intervene. Associate Judge Mr. Fuster Berlingeri dissents without a written opinion.

Patricia Otón Olivieri
Clerk of the Supreme Court

Along the left margin of the obverse side of the Sentence there are eleven (11) $1.00 cancelled Treasury Stamps. Also the stamp of the Commonwealth of Puerto Rico/ General Justice Tribunal

I CERTIFY that the preceding is a faithful and accurate copy Of its original that is in the records of the case

[x] Prior payment of fees
[ ] For official use

In San Juan, Puerto Rico on June, 21 of 2005

SECRETARY OF THE
SUPREME COURT

By: /s/ .
Clerk or Assistant

IN THE SUPREME COURT OF PUERTO RICO

In re:	No. AB-2001-211
Pedro A. Roldós Matos Arcelio Maldonado Avilés Lillianette Cortés Soto	Cons. AB-2001-232 AB-2001-217

RESOLUTION

San Juan, Puerto Rico, on June 7, of 2004

As to the motion for reconsideration presented on April 1, 2004 it is denied.

Agreed to by the Court and Certified by the Clerk of the Supreme Court. Associate Judge Mr. Fuster Berlingeri might reconsider. Associate Judge Mr. Rebollo Lopez did not intervene

/S/
PATRICIA OTÓN OLIVIERI
CLERK OF THE
SUPREME COURT

Along the left margin of the obverse side of the Resolution dated June 7, 2004 there is one (1) $1.00 and one (1) .50 cancelled Treasury Stamps. Also the stamp of the Commonwealth of Puerto Rico/General Justice Tribunal

I CERTIFY that the preceding is a faithful and accurate copy

Of its original that is in the records of the case

[x] Prior payment of fees

[ ] For official use

In San Juan, Puerto Rico on June, 21 of 2005

SECRETARY OF THE
SUPREME COURT

By: /S/ .
Clerk or Assistant

IN THE SUPREME COURT OF PUERTO RICO

In re: Pedro A. Roldós Matos	No. AB-2001-211 AB-2001-232 AB-2001-217

RESOLUTION

San Juan, Puerto Rico, on April 8, of 2005

As to the second motion for reconsideration presented in this case, denied and abide by that which was resolved.

Agreed to by the Court and Certified by the Clerk of the Supreme Court. Associate Judge Mr. Fuster Berlingeri might reconsider. Associate Judge Mr. Rebollo Lopez did not intervene

/S/
AIDA ILEANA OQUENDO GRAULAU
CLERK OF THE SUPREME COURT

Along the left margin of the obverse side of the Resolution dated April 8, 2005 there is one (1) $1.00 and one (1) .50 cancelled Treasury Stamps. Also the stamp of the Commonwealth of Puerto Rico/General Justice Tribunal

I CERTIFY that the preceding is a faithful and accurate copy

Of its original that is in the records of the case

[x] Prior payment of fees

[ ] For official use

In San Juan, Puerto Rico on June, 21 of 2005

SECRETARY OF THE
SUPREME COURT

By: /S/ .
Clerk or Assistant

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

SOCIEDAD PARA ASISTENCIA LEGAL DE PUERTO RICO, INC. Employer and UNION INDEPENDIENTE DE ABOGADOS PARA ASISTENCIA LEGAL DE PUERTO RICO, INC. Petitioner	TYPE OF ELECTION (*Check one*) ☐ Consent Agreement ☒ Stipulation ☐ Board Direction ☐ RD Direction Case No. 24-RC-6807	(*Also check box below where appropriate*) ☐ 8(b)(7)

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the Regional Director of the National Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no objections having been filed to the Tally of Ballots furnished to the parties, or to the conduct of the election, within the time provided therefor;

Pursuant to authority vested in the undersigned by the National Labor Relations Board, IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for

UNION INDEPENDIENTE DE ABOGADOS PARA ASISTENCIA LEGAL DE PUERTO RICO, INC.

and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, the said labor organization is the exclusive representative of all the employees in the units set forth below, found to be appropriate for the purposes of collective bargaining in respect to rates of pay wages, hours of employment, or other conditions of employment.

UNIT: *Included*: All attorneys employed by the Employer at its offices located in San Juan, Bayamón, Carolina, Caguas, Humacao, Ponce, Mayaguez, Aguadilla, Arecibo and Utuado, Puerto Rico.

Excluded: All other employees, office clerical employees, guards, and supervisory attorneys and supervisors as defined in the Act.

Signed at Hato Rey, Puerto Rico
On the 11th day of July 1983.

[LOGO]

On behalf of

NATIONAL LABOR
RELATIONS BOARD

/s/ Michael S. Maram
Michael S. Maram
Acting Regional Director,
Region 24
National Labor Relations Board